

Message Text

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ACTION EA-14

INFO OCT-01 ISO-00 L-03 JUSE-00 SCA-01 CPR-02 EB-11 COME-00

OMB-01 TRSE-00 CIAE-00 INR-10 NSAE-00 RSC-01 PM-07

NSC-10 SPC-03 SS-20 DODE-00 DRC-01 /085 W

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R 290335Z JAN 74

FM AMEMBASSY MANILA

TO SECSTATE WASHDC 0666

INFO CINCPAC

C O N F I D E N T I A L MANILA 1051

CINCPAC FOR POLAD

PASS TO L AND DEPT. JUSTICE FOREIGN LITIGATION UNIT

E.O. 11652: GDS

TAGS: PFOR, RP

SUBJECT: PHILIPPINE REACTION TO SOVERIGN IMMUNITY ISSUE

REF: STATE 238932 (1973 SERIES)

SUMMARY: DFA ISSUED CIRCULAR TO ALL POSTS ABROAD CAUTIONING THEM FROM SIGNING CONTRACTS. CITES ACTION BY DEPT. OF STATE IN REFUSING TO SUGGEST IMMUNITY TO U.S. COURT IN CASE AGAINST PHIL EMB. SOLICITER GENERAL DOES NOT BELIEVE ACTION BY DFA CHANGES GOP POLICY IN THIS AREA. CIRCULAR WILL BE POUCHED WHEN OBTAINED. END SUMMARY.

1. AS PREDICTED IN REFTTEL, GOP HAS REACTED TO DEPL'S REFUSAL TO SUGGEST IMMUNITY TO U.S. IN SUIT BROUGHT AGAINST PHIL EMB AS AGENT FOR RICE ANC CORN ADMINISTRATION.

2. IN ARTICLE APPEARING IN JAN. 25, 1974, ISSUE OF BULLETIN TODAY, IT STATED DFA HAD PROMULGATED CIRCULAR TO ALL PHIL EMBS AND CONSULATES ABROAD CONCERNING
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PROBLEM AND WARNED THEM NOT TO SIGN COMMERCIAL TYPE

CONTRACTS FOR OTHER AGENCIES OF PHIL GOVT. ARTICLE THEN CITES CASE IN U.S. THAT REQUIRED SUCH CIRCULAR TO BE ISSUED BUT DID NOT MENTION DISTINCTION BETWEEN DIPLOMATIC VIS A VIS JUDICIAL ASSERTION OF SOVEREIGN IMMUNITY THAT DEPT. MADE TO PHIL EMB. SECTY ROMULO IS QUOTED AS STATING THAT ABOVE PROHIBITION SHOULD PREVENT EMBS AND CONSULATES FROM INVOLVEMENT IN FUTURE LITIGATION.

3. ARTICLE QUOTES SOURCES IN DFA AS INDICATING THAT DUE TO HARD LINE ADOPTED BY STATE DEPT, GOP WOULD CHANGE LENIENT POLICY PROVIOUSLY ADOPTED ON SIMILAR INCIDENTS AND UTILIZE RESTRICTIVE THEORY OF SOVEREIGN IMMUNITY IN FUTURE CASES. SOURCE IS ALSO QUOTED AS STATING, QUOTE IN LIKE MANNER AS THE STATE DEPT. HAS DECIDED IN WASHINGTON, THE U.S. EMB IN MANILA WILL BE EXTENDED LIMITED DIPLOMATIC (SIC) IMMUNITY IN CONNECTION WITH CONTRACTS ENTERED INTO BY THE EMB AND ITS AGENCIES WITH PHIL FIRMS IN WHAT MAY BE CONSIDERED COMMERCIAL TRANSACTION. UNQUOTE.

4. EMBOFFS DISCUSSED ISSUE WITH SOLICITER GENERAL MENDOZA. HE UNDER IMPRESSION THAT CIRCULAR REALLY HAS NOT CHANGED PHIL PRACTICE IN THIS AREA AS THEY TENDED TO FAVOR RESTRICTIVE THEORY IN ANY EVENT.

5. DEPT. IS AWARE THAT OVER PAST YEARS MANY SUITS HAVE BEEN BROUGHT AGAINST USG AND ITS INSTRUMENTALITIES IN THE PHIL. WE HAVE NOT SUBMITTED THROUGH DIPLOMATIC CHANNELS A REQUEST FOR SOVEREIGN IMMUNITY EXCEPT IN CASES DIRECTLY AGAINST THE U.S. VETERANS ADMINISTRATION. IN LATTER CASES, DFA HAS MERELY FORWARDED OUR REQUEST TO APPROPRIATE COURT WITHOUT TAKING POSITION. THE COURTS HAVE DISMISSED SUCH CASES UPON RECEIPT OF EMB NOTE.

6. EMB ATTEMPTING TO OBTAIN COPY OF CITED CIRCULAT AND WILL POUCH WHEN OBTAINED.
SULLIVAN

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: DIPLOMATIC PRIVILEGES, LITIGATION, RICE, CORN, MARINE TRANSPORTATION, ARBITRATION, FOREIGN RELATIONS, DIPLOMATIC NOTES, DEBTS, COURTS
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Draft Date: 29 JAN 1974
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Disposition Authority: golinofr
Disposition Case Number: n/a
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Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
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Drafter: n/a
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Executive Order: GS
Errors: N/A
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